

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

JERRY L. TIBBS,

Plaintiff,

vs.

JO ANNE B. BARNHART,

Defendant.

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Case No. 1:06CV3RWS(MLM)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the court on Defendant's Motion to Reverse and Remand pursuant to 42 U.S.C. § 405(g), sentence 4. [Doc. 13] This case was referred to the undersigned United States Magistrate Judge for Report and Recommendation on dispositive matters pursuant to 28 U.S.C. § 636(b)(1). [Doc. 3]

Defendant's Motion states that after careful review of the case agency counsel requested the Appeals Council of the Social Security Administration to reconsider the Commissioner's decision. Upon review, the Appeals Council determined that remand was appropriate for further consideration of plaintiff's claim.

Upon receipt of the court's remand order, the Appeals Council will remand this case to an Administrative Law Judge ("ALJ"), who will be directed to re-evaluate the evidence and further develop the record to include obtaining a consultive examination, to establish the degree of functional limitations caused by plaintiff's left hand injury, and specifically, to determine the degree to which plaintiff is capable of handling objects. The ALJ will also be directed to obtain evidence from a vocational expert to ascertain what degree the established limitations effect the occupational base of jobs in the national economy.

The court has considered defendant's Motion and plaintiff's lack of opposition and recommends that the Motion be granted. The entry of final judgment reversing and remanding this

case will begin the appeal period which determines the thirty (30) day period during which a timely application for attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, may be filed.

Accordingly,

IT IS HEREBY RECOMMENDED that defendant's Motion to Reverse and Remand be **GRANTED**. [Doc. 13]

IT IS FURTHER RECOMMENDED that a Final Judgment be entered contemporaneously with the court's judgment reversing the decision of the ALJ and remanding this case to the Commissioner of Social Security for further consideration pursuant to sentence 4 of 42 U.S.C. § 405(g).

IT IS FURTHER RECOMMENDED that the entry of the Final Judgment will begin the appeal period which determines the thirty (30) days period during which a timely application for attorney's fees under the Equal Access to Justice Act may be made.

/s/Mary Ann L. Medler
MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 10th day of August, 2006.